

**REMARKS**

The Examiner's Action mailed on November 16, 2004 has been received and its contents carefully considered.

In this Amendment, Applicants have cancelled Claims 1, 9, 11 and 21 and has amended Claims 2, 3, 6-8, 10, 12-13, 16-17 and 19-20. Claims 22 and 23 are new claims. Claims 2, 12 and 22 are the independent claims.

Claims 3 and 6-8 depend on Claim 2. Claim 4 depends on dependent Claim 3 and Claim 5 depends on dependent Claim 4. Claims 10, 13, 16-17 and 19 depend on independent Claim 12. Claim 14 depends on dependent Claim 13, Claim 15 depends on dependent Claim 14, Claim 18 depends on dependent Claim 17 and Claim 20 depends on dependent Claim 19. Claim 23 depends on independent Claim 22. Claims 2-8, 10, 12-20 and 22-23 remain pending in the application with changes thereto as noted above. For at least the following reasons, it is submitted that this application is in condition for allowance.

Initially, if there are any irregularities in the format of this Amendment, it would be greatly appreciated if the undersigned would be so advised.

**a. Rejection of Claims 1, 3, 6-11, 13, 16 and 21 under 35 U.S.C. § 102(b) and Objection to Claims 2, 4-5, 12, 14-15 and 17-18**

The Examiner rejected Claims 1, 3, 6-11, 13, 16 and 21 under 35 U.S.C. § 102(b), as being unpatentable over Habegger, US Patent No. 4,124,961, since Habegger '961 allegedly discloses a plurality of masonry articles comprising in combination:

- (1) First and second headers for each masonry article, corner article and alternative corner article;
- (2) Each first header includes a first and second projecting portion and an end recessed portion, the end recessed portion located between the first and second projecting portion;

- (3) The second header comprising first opposite projecting portion, second opposite projecting portion, first inner recessed portion and second inner recessed portion;
- (4) A contoured portion of the first header mates with a contoured portion of the second header of another block;
- (5) A contoured portion of the second header of each plurality of masonry articles, the corner article and the alternative corner article each coupling to a portion of one other first head of another article; an outward face of a portion of a wall is assembled with a plurality of articles and has a mortar like vertically and horizontally oriented gaps;
- (6) The plurality of masonry articles, corner and alternative articles when assembled provide a portion of the wall having a contoured front face;
- (7) The plurality of masonry articles, the corner and alternative corner articles when assembled provide a portion of the wall having a lower base and a contoured upper base;
- (8) the contoured front face of the masonry article, the corner portion and the alternative corner portion having an elevated portion adjacent to an indented portion; the indented portion extending from an end of the first header to the elevated portion to present a mortar like vertically and horizontal gap oriented gaps;
- (9) the distance between each of the masonry articles, corner and alternative articles adjacently coupled to the other masonry articles and is selectively adjustable to accommodate variations in length of a course of the articles of the portion of the wall;
- (10) corner masonry articles and alternative masonry articles; the masonry articles the corner masonry articles and the alternative masonry articles together provide contoured shape so the outward; and face of the wall, assembled with the above three provide the appearance of mortar like horizontal and vertical gaps;

- (11) the contoured upper portion mates with the lower base of another masonry article, corner article and alternative corner article; and
- (12) first and second corner head portions; the first corner head portion coupling to a second head of the masonry articles; the second corner head portion coupling to the first head portion of another masonry article so that the outer face of the corner portion assembled with a plurality of corner masonry articles and corner articles has a mortar like appearance with vertical gaps and a front face.

The Examiner also stated that dependent Claims 2, 4-5, 12, 14-15 and 17-18 are objected to as depending upon a rejected base claim but would be considered as allowable if amended to include the base claim and any intervening claims.

In response, Applicant has amended previously dependent Claim 2 to be an independent claim which incorporates all the features of independent Claim 1 thereby obviating the Examiner's objection to Claim 2 and patentably distinguishing over Habegger '961 by adding the extra limitations of independent Claim 1 to Claim 2. In order to expedite the prosecution of the subject patent application, Applicant has cancelled Claim 1 without prejudice or disclaimer, and therefore, the rejection of Claim 1 is now moot. Dependent Claims 3 and 6-7 have been amended to now all depend on independent Claim 2 and Claim 8 has been amended to depend on Claim 7. Objected to dependent Claim 4 depends from amended dependent Claim 3, and objected to dependent Claim 5 depends from dependent Claim 4. Dependent Claims 3-8 clearly patentably distinguish over Habegger '961 since Claims 3-8 ultimately depend from amended independent Claim 2 and include all the limitations of now patentably distinct independent Claim 2 (as noted above).

Similarly, Applicant has amended previously dependent Claim 12 to be an independent claim which incorporates all the features of independent Claim 9 and dependent Claim 11 thereby obviating the Examiner's objection to Claim

12 and patentably distinguishing over Habegger '961 by adding the extra limitations of both independent Claim 9 and dependent Claim 11 to Claim 12. In order to expedite the prosecution of the subject patent application, Applicant has cancelled Claims 9 and 11 without prejudice or disclaimer, and therefore, the rejection of Claims 9 and 11 is now moot. Dependent Claims 10, 13 and 16-17 have been amended to now all depend on amended independent Claim 12. Objected to dependent Claim 14 depends from dependent Claim 13, objected to dependent Claim 15 depends from dependent Claim 14 and objected to dependent Claim 18 depends from dependent Claim 17. Dependent Claims 10, 13-18 clearly patentably distinguish over Habegger '961 since Claims 10, 13-18 ultimately all depend from Claim 12, and include all the limitations of now patentably distinct independent Claim 12 (as noted above).

In order to expedite the prosecution of the subject patent application, Applicant has cancelled Claim 21 without prejudice or disclaimer, and therefore, the rejection of Claim 21 is now moot. Support for these amendments is found in Applicant's original Specification, Drawings and Original Claims as discussed above. These amendments are intended to be clarifying only and no reduction in scope of the remaining claims is intended.

For the foregoing reasons, it is respectfully submitted that the rejections of Claims 1, 3, 6-11, 13 and 16 under 35 U.S.C. § 102(b) and the objection to Claims 2, 4-5, 12, 14-15 and 17-18 have been overcome. Withdrawal of the rejections of pending Claims 1, 3, 6-11, 13 and 16 and the objection to Claims 2, 4-5, 12, 14-15 and 17-18 on this basis is believed to be in order and is courteously requested.

**b. Rejection of Claims 6- 7, 19 and 20 under 35 U.S.C. § 103(a)**

Claims 6-7, 19 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Habegger, US Patent No. 4,124,961 in view of Rassias et al., US Patent No. 4,319,440. The Examiner alleges it would have been

obvious to include the rebars, the holes and accompanying mortar fashioned as claimed and shown by Rassias et al. '440 in order to reinforce and strengthen the entire wall constructed of the masonry article because:

- (1) Rassias et al. '440 allegedly discloses the upper base comprises a channel extending from horizontally from the first header to the second header; when a portion of the lower base couples to a portion of the upper base the channel providing an opening, the opening is capable of accommodating an horizontally oriented reinforcing rod and is capable of accommodating mortar as shown by Rassias et al. '440; and
- (2) Rassias et al. '440 also allegedly shows masonry articles with holes extending from the upper base to the lower base; each of the holes for accommodating vertically oriented reinforcing rod within each of said plurality of holes and for accommodating mortar within each of the holes.

In response, initially Applicant notes that Claims 6-7 are dependent claims, each of which have been amended and now have a dependency from now amended unique and non-obvious independent Claim 2, and Claim 19 has been amended to depend from now amended unique and non-obvious independent Claim 12, while Claim 20 depends from amended dependent Claim 19. Applicant has also amended both Claim 7 and Claim 20 so that the plurality of masonry articles has at least one hole rather than a plurality of holes and the interlocking masonry articles has at least one hole rather than a plurality of holes. Support for these amendments is found in Applicant's Original Specification and in Applicant's Original Drawings.

Applicant respectfully traverses the Examiner's rejection of Claims 6-7 and 19-20 and submits that a person having ordinary skilled in the art at the time the invention was made did not have Applicant's unique and non-obvious plurality of masonry articles and the collection of interlocking masonry articles as defined in now amended independent Claims 2 and 12. Clearly, the Habegger '961 plurality of masonry articles is not Applicant's plurality of

masonry articles. Since dependent Claims 6-7 and 19-20 depend from independent Claims 2 and 12 to a combination of unique and non-obvious features, dependent Claims 6-7 and 19-20 are clearly unique and non-obvious as a whole. By way of precedent, Walters, U.S. Patent 6,588,168 originally cited in Applicant's IDS shows a cement block with a channel (opening) and holes in a cement block and defines dependent Claim 37 of Walters '168 for a wall comprising "a vertically-oriented rebar rod disposed within at least one of said vertical channels" of a cement block as claimed in Walters '168 independent Claim 15. Walters '168 is a newer citation than Rassias et al. '440 and according to the Examiner's obviousness rejection as stated above of Applicant's Claims 6-7 and 19-20, Walters '168 also should not have been allowed claims to a rebar and mortar. Applicant now defines a unique and non-obvious plurality of masonry articles and a unique and non-obvious collection of interlocking masonry articles as defined in now amended Claims 2 and 12 respectively. Therefore, Applicant respectfully submits it is not obvious to include the rebars, the holes and accompanying mortar fashioned as claimed and shown by the combination of Habegger '961 in view of Rassias et al. '440 as applied by the Examiner to Applicant's now amended dependent Claims 6-7 and 19-20, in view of the above cited example of the Walters '168 reference, and Applicant's amendments as described above.,

For the foregoing reasons, it is respectfully submitted that the invention defined by amended Claims 6-7 and 19-20 would not have been obvious and withdrawal of the rejection of Claims 6-7 and 19-20 under 35 U.S.C. § 103 is believed in order and courteously requested. Accordingly, it is respectfully requested that the rejection of Claims 6-7 and 19-20 under 35 U.S.C. § 103(a) be withdrawn.

### c. New Claims 22-23

New Claim 22 is an independent claim, which states unique and non-obvious features of independent Claim 2 in gerund form, and other unique and non-obvious features of a method for assembling a portion of a wall comprising the steps of:

"providing a first header and a second header for each of a plurality of masonry articles, the first header of each of the plurality of masonry articles comprising a first projecting portion, a second projecting portion and an end-recessed portion of each of the plurality of masonry articles, the end-recessed portion located between the first projecting portion and the second projecting portion of the first header of each of the plurality of masonry articles and the second header of each of the plurality of masonry articles comprising a first opposite projecting portion, a second opposite projecting portion, a first inner recessed portion, a second inner recessed portion and an opposite recessed portion of each of the plurality of masonry articles, the first opposite projecting portion adjacent to the first inner recessed portion of the second header of each of the plurality of masonry articles, the second opposite projecting portion adjacent to the second inner recessed portion of the second header of each of the plurality of masonry articles, the opposite recessed portion located between the first inner recessed portion and the second inner recessed portion of the second header of each of the plurality of masonry articles so that the first header of each of the plurality of masonry articles couples to one other second header of one other of the plurality of masonry articles and the second header of each of the plurality of masonry articles couples to the other first header of one other of the plurality of masonry articles to provide the portion of the wall;

coupling a contoured portion of the first header of each of the plurality of masonry articles to a contoured portion of another second header of another one of the plurality of masonry articles;

coupling a contoured portion of the second header of each one of the plurality of masonry articles to a contoured portion of one other first header of one other of the plurality of masonry articles so that an outward face of a portion of a wall assembled with the plurality of masonry articles has a mortar-like vertically oriented gap;

assembling the plurality of masonry articles to provide a portion of the wall having a contoured front face, each of the plurality of masonry articles having a lower base and a contoured upper base, the contoured upper base of each of the plurality of masonry articles comprising a channel extending substantially horizontally from the first header to the second header of each of the plurality of masonry articles; and

coupling a portion of the contoured upper base of each of the plurality of masonry articles to a portion of a lower base of one of the other plurality of masonry articles so that the outward face of the portion of the wall assembled with all of the plurality of masonry articles has a mortar-like horizontally oriented gap".

New Claim 23 is a dependent claim depending on Claim 22 and states the unique and non-obvious features of:

"coupling the portion of the lower base of the plurality of masonry articles to the portion of the contoured upper base of one other of the plurality of masonry articles, the channel of each one of the plurality of masonry articles defining an opening;

providing each one of the plurality of masonry articles has at least one hole extending from the upper base to the contoured lower base;

off-setting a course of the plurality of masonry articles relative to another course of the plurality of masonry articles, each one of the plurality of masonry articles of the another course having at least one hole to vertically align the at least one hole of the course of the plurality of masonry articles to the at least one hole of the another course of the plurality of masonry articles;

providing at least one substantially vertically oriented reinforcing rod;  
providing at least one substantially horizontally oriented reinforcing rod;  
positioning the at least one substantially horizontally oriented reinforcing rod within the opening of at least one of the plurality of masonry articles;  
positioning the at least one substantially vertically oriented reinforcing rod within the at least one hole of at least one of the plurality of masonry articles; and  
pouring mortar into the at least one hole to substantially fill the opening of each one of the plurality of masonry articles thereby adhering the course of the plurality of masonry articles to the another course of the plurality of masonry articles when the mortar sets".

Support for Claims 22 and 23 is found in Applicant's original Specification, Drawings and Original Claims. Claims 22 and 23 have been written without the introduction of any new matter whatsoever.

Applicant has now made an earnest attempt to place this application in condition for allowance. Therefore, Applicant respectfully requests, for the reasons set forth herein and for other reasons clearly apparent, allowance of Claims 2-8, 10, 12-20 and 22-23 and that the application be passed to issue. The Examiner is hereby invited to contact the undersigned to arrange a telephone conference should the Examiner feel that such an interview would help to expedite the prosecution of the application.

Since Applicant originally had 3 independent claims and 18 dependent claims and now has 3 independent claims and 16 dependent claims, no fees are due.

If there are any fees incurred by this Amendment Letter, please deduct them from our Deposit Account No. 23-0830.

Respectfully submitted,

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